IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 27454 of 2003

Between:

Mohd. Ishrath, S/o. Khaja, T/M Bhainsa Depot, Bhainsa, A.P.S.R.T.C., Adilabad District.

..... PETITIONER

AND

1 A.P.S.R.T.C., Rep. by Vice-Chairman and Managing Director, Musheerabad, Hyderabad.
2 The Regional Manager, A.P.S.R.T.C., Adilabad, Adilabad District.
3 The Depot Manager, A.P.S.R.T.C., Bhainsa Depot, Bhainsa, Adilabad District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or directions, more in the nature of Writ of Mandamus directing the respondents to fix the pay of the petitioner by allowing all increments for out of employment period and pay arrears from the date of reinstatement.

Counsel for the Petitioner: MR.P.GOVINDA RAJULU

Counsel for the Respondents: SMT.G.JYOTHI KIRAN

The Court made the following :

ORAL ORDER:

The petitioner has filed this writ petition questioning the action of the respondents in not allowing all the increments for the period during which he was out of employment and for non-payment of arrears from the date of his reinstatement into service as illegal and arbitrary.

It is stated that while the petitioner was working as Tin-Smith at Nirmal Depot, he was removed from service by proceedings, dated 5.12.1991. Questioning the said removal order, he raised an industrial dispute before the Labour Court in I.D.No.123 of 1994. The Labour Court, by an award, dated 21.6.1996, held that the charge levelled against the petitioner is not proved and therefore, the petitioner is liable to be reinstated with continuity of service and attendant benefits in respect of increments only and accordingly directed the respondent therein to reinstate the petitioner with continuity of service and attendant benefits in respect of increments and insofar as the period during which he was out of service is concerned, it was directed to be treated as medical leave to which the petitioner is eligible. Though nothing has been stated about the back wages, the petitioner is not entitled to any back wages for the period when he was out of service, but he is entitled to the notional

increments for such period and after fixing the notional increments, the petitioner is entitled for arrears from the date of his reinstatement into service.

Pursuant to the said order, the petitioner was reinstated into service vide Proceedings, dated 17.12.1996 by the 2nd respondent - Regional Manager, Adilabad. As he was already reinstated, the 2nd respondent passed an office order, dated 4.9.2003 to implement the said award, but the Depot Manager has not fixed his pay by taking into account the notional increments for the period during which the petitioner was out of service.

Whenever an employee is directed to be reinstated, he is entitled to notional increments and however, there is specific direction in the award that the petitioner is entitled to continuity of service and also attendant benefits in respect of notional increments. Therefore, I am of the considered opinion that the petitioner is entitled to notional increments for the period during which he was out of employment and the resultant arrears thereto.

Having regard to the facts and circumstances of the case, the writ petition is allowed directing the respondents to fix notional increments for the period during which the petitioner was out of employment and pay arrears of the salary to him from the date of his reinstatement till date, within four weeks from the date of receipt of a copy of this order. No costs.

(V.ESWARAIAH,J.)

That Rule Nisi has been made absolute as above.

Witness the Honourable Sri Devinder Gupta, the Chief Justice on this Wednesday the Twenty Fifty Day of August, Two Thousand and Four.

25th August, 2004

bcj

To

1 The Vice-Chairman and Managing Director, A.P.S.R.T.C., Musheerabad, Hyderabad.
2 The Regional Manager, A.P.S.R.T.C., Adilabad, Adilabad District.
3 The Depot Manager, A.P.S.R.T.C., Bhainsa Depot, Bhainsa, Adilabad District.

4 Two C.D. copies